



May 2009 Planning Commission Meeting Minutes

Tuesday, May 25, 2010

APPROVED BY:

pw3

MINUTES OF THE LAKE COUNTY PLANNING COMMISSION May 25, 2010

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Ms. Pesec, Chair, called the meeting to order at 7:02 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Brotzman, Martin (alt. for Troy), Morse, Schaedlich, Welch (alt. for Aufuldish), Zondag, and Mmes. Hausch and Pesec. Staff present: Messrs. Boyd, Radachy, and Ms. Myers.

MINUTES

The following corrections were given by Mr. Schaedlich for the April 27, 2010 minutes:

- Page 2, Balanced Growth Initiative, the word "and" should be deleted after Geographic Information Systems (GIS).
- On page 3, Nature Preserve North, Phase 4, first paragraph and on page 7, proposed stipulation number 25, the word "further" should be "farther".
- Gossport Loam on page 4, first paragraph, is spelled Gosport.
- Page 7, proposed stipulation 27 should show right of way as right-of-way.

Mr. Schaedlich moved to approve the minutes as amended above and Mr. Welch seconded the motion.

All voted "Aye".

FINANCIAL REPORT

Mr. Boyd said everything was on track in the budget. There was about \$1,000.00 in chargebacks for the Public Officials Directory that Elaine Truesdell spearheads. He noted the \$50,000.000 revenue is the first installment of the Balanced Growth Initiative. This is being

shared with Lake County Soil and Water Conservation Department, the Lake County Stormwater Department, Chagrin River Watershed Partners, and the GIS Department.

Mr. Schaedlich moved to approve the April, 2010 Financial Report as submitted. Mr. Morse seconded the motion.

All voted "Aye".

LEGAL REPORT

Assistant Prosecutor, Eric Condon stated there were no legal matters to discuss.

DIRECTOR'S REPORT

Chair Pesec asked to have the updated Lake County Planning Commission Membership Roster in the handout emailed to the members.

Community Planning

Staff is finishing a small contract with Painesville Township to review all their forms, processes, and flow charts.

Mr. Radachy continues to work with Fairport Harbor Village on a contract basis.

Mr. Boyd just finished the Willoughby lakefront contract for about \$3,500.00. He spoke with the Community Development Director today and they were very pleased with our work. Another contract may be forthcoming in the next couple of months.

Perry Township is moving ahead with a slope stabilization project for about \$300,000.00. There will be a couple of phases, one of which will include new beach creation down the road.

Upcoming Projects

Bonding Amendments:

Staff is reviewing the County maintenance guarantee procedure amendments. Of note, there seems to be quite a lot of concern from the applicants, contractors, engineers and this Commission concerning posting bonds, the number of years for a bond, and other issues. Staff is researching how other counties are handling bonds. We should have something to present to the Commission when we have completed our research in the next couple of months.

Regarding Ms. Pesec's inquiry about best management practices, Mr. Radachy stated that the staff has looked into Ashtabula, Geauga, Trumbull and Lake Counties, as well as Warren County by Cincinnati, Delaware County outside of Columbus and Claremont County. There are currently three ways accepted by Lake County to guarantee a maintenance surety: a letter of credit, cash in a CD or passbook, or a bond. This was taken from the State of Ohio

Model Subdivision Regulations, which were developed by the County Commissioners Association of Ohio and the County and Engineers Association of Ohio.

Ms. Pesec questioned if the model regulations included the length of time as well as the methods of the guarantee. Mr. Radachy stated so far in his research, the time limits have varied from six months to five years. One community would not release a surety during the winter because they were unable to see the roads clearly at that time. Mr. Zondag suggested that the impact of increasing the length of time of a bond should also be considered because he believed a contractor may do a better job when building roads if he or she knows they will be responsible for a road for a longer period of time. This would help the townships that would be stuck repairing and maintaining roads in poor condition.

ANNOUNCEMENT

NE Ohio Planning and Zoning Workshop

Mr. Radachy reported there were currently about 30 registrations for the Northeast Ohio Planning and Zoning Workshop to be held on June 25, 2010 at the Avalon Inn in Warren, Ohio. Thirteen of them are from Lake County making them the leader even though it is being held in Trumbull County.

SUBDIVISION REVIEW

Concord Township – Crossroads at Summerwood, Preliminary Plan Extension

The plan for the Crossroads at Summerwood Subdivision was shown to the Commission members. It is located off of S.R. 608, south of the Summerwood PUD Subdivision in Concord Township. The first phase of the Crossroads of Summerwood consisted of 25 sublots with 137 sublots remaining on the preliminary plan. They are all one-acre lots. The preliminary plan was approved in March of 2005. The first phase was approved in June of 2005. They had three years from June, 2005 for the next phase to be filed. In 2008 and 2009, the Commission was asked for two-year extensions and granted the developer one-year extensions. The Reibe Living Trust co-trustees are again requesting a two-year extension.

Mr. Radachy stated, if the preliminary plan extension is not approved, they would have to submit a new preliminary plan at a fee of \$600.00 and adhere to the current Subdivision Regulations of 2009. Crossroads at Summerwood was granted a couple variances on block length, which would also need to be redone.

The Chair stated the reason for the decision that the preliminary plan would be good for only a certain number of years, if remembered correctly, was so they would have to adhere to any new regulations occurring during the time of the extensions in the townships or the County regulations, i.e. Concord Townships' change in density from ½ acre lots to one-acre lots. Mr. Radachy said the Engineer's office has new specs to which they would need to adhere. In the past, an extension for Quail Hollow #11 was denied due to utilities needing to come through Quail Hollow #10 that did not have preliminary plan approval.

The following comments were submitted on this extension request:

COMMENTS FROM REVIEWING AGENCIES:

1. All phases and detailed construction plans shall be subject to the Lake County Department of Utilities approval process. *L.C. Utilities*
2. Future drawings shall meet all new requirements established by our office and the Stormwater Management Department. *L.C. Engineer*
3. Do not recommend approval since they have already received two years worth of extensions. *Concord Twp. Trustees*

OTHER COMMENTS:

1. This subdivision's preliminary plan received extensions in 2008 and 2009.
2. If the preliminary plan approval is not extended, the developer will be required to resubmit the preliminary plan with an application and fee of \$600.00. If the resubmitted preliminary is approved, the approval would be in place for three years.
3. The Lake County Subdivision Regulations were revised. The current set of regulations went into effect on March 31, 2009. Regardless if the extension is granted or not granted, this plan would be subject to the current regulations.

Mr. Brotzman was concerned about the lengthening of the approval process mentioned as a reason for a two-year extension in the developer's letter. Mr. Radachy stated he was unaware of anything that would lengthen the approval process, other than the pre-application meeting, which would not affect this situation. Mr. Boyd thought he might have been referring to various permits needed in the process and not through us. Filing a final plat would automatically reset the time to three years. There is no fee for requesting an extension.

If this preliminary plan extension was granted today, they would be subject to our 2005 Subdivision Regulations. If denied, they would be subject to the current Regulations. Who posts the maintenance surety could be a concern.

Concord Township Trustees did not wish to see this extension approved and did not give any details of why. Last year, they recommended a six-month to one-year extension.

Mr. Martin asked if they could grant the extension with the stipulation that they would be grandfathered in other than the bonding requirement. Mr. Condon said "No".

Mr. Condon was asked if this was approved for the third time, would it set precedence and he replied that anything they did could be precedence.

Mr. Morse moved to approve a one-year extension for the preliminary plan of Crossroads at Summerwood. Mr. Schaedlich seconded the motion.

Discussion: Mr. Brotzman asked staff if there was something they wanted to see in this case. Mr. Boyd stated his biggest concern was all the questions we were receiving on the bond process, the maintenance guarantee process. This was one of the reasons for changing the Subdivision Regulations in March of 2009. He did not see any substantial changes to the design or the geography of the site or subdivision as it relates to the new Subdivision Regulations.

Mr. Zondag wondered if it was smart to grant this when we know they may not be able to develop this property. He thought there might be a problem some place along the way if they cannot sell the property.

Mr. Boyd was of the opinion that when you grant a variance too often, there is probably something wrong with the rule.

Mr. Radachy stated there were 500 vacant sublots in the five townships and half of them are in Concord Township. Adding more sublots to the tax role is good for the County, but not so good for the property owner. You would also be adding new roads for the township to maintain in the future.

Mr. Zondag was concerned about how many times this group would feel comfortable to allow someone to come back for an extension. He thought no more than three would be a good limit.

Mr. Martin said changing the Subdivision Regulations to allow a certain amount of extensions should be considered in the future. There is no guidance in the current Regulations and a defined limit needs to be set.

It was the consensus to grant a one-year extension in this case.

Mr. Zondag also brought up that the time of year would make a difference in which we look at this variance. A variance should be granted to end in the spring. He and Mr. Condon also suggested limiting the number of extensions allowable in the Subdivision Regulations.

Seven voted "Aye".
Two opposed.

Motion passed.

Subdivision Activity Report

Mr. Radachy gave the following report on subdivision activity:

- Mountainside Farms 3B – They are currently requesting its maintenance surety release. The Engineer has done a walk through. This Subdivision was built in May of 2005 with six lots on a 300-foot road.

- Crossroads of Summerwood, Phase 1 – They are requesting the release of their maintenance surety. The Engineer did a walk through and Concord Township gave them a punch list for repairs.
- Cambden Creek, Phase 2 – The Engineer issued a punch list. It is currently being built in lieu of a Construction Guarantee. Once it goes into maintenance, the plat can be filed and the lots can be sold. This particular property is owned by a bank that is pushing to get this phase on the market.
- Orchard Springs, Phase 1 – The County Engineer and Sanitary Engineer are both recommending Orchard Springs go into maintenance. The developer has provided us with maintenance bonds for both sanitary and road improvements. The plat has been signed off by all entities. It was built in lieu of a Construction Guarantee, so the maintenance bonds may be accepted by the Commissioners before the plat can be filed. Mr. Boyd wanted the Commission to know that Mr. Radachy put a lot of extra effort and time into getting this moved as fast as possible and working with the developer above and beyond duty. All items will be on the June 3, 2010 County Commissioners' meeting. The final plat will be signed by the Commissioners, the maintenance bonds will be accepted and, technically, the plat could be recorded in the afternoon.
- Azalea Ridge – There is a large 16-acre parcel at the end of the subdivision. It was part of this PUD in Perry Township and originally intended to be attached condominiums. The property was sold to CPHCSUBLLC, which through the power of the computer, was determined be a bank. They are currently exploring different options to develop the property. There have been some minor changes in the Perry Township regulations since the PUD was first created. It may be grandfathered, but may need to go to the Zoning Commission or Trustees because of the change in zoning.
- Brooks Property, Painesville Twp. – A representative from a real estate company came into the office to possibly develop this property. They are planning to finish part of the detached condominiums and may split off the southern portion that has not been developed yet from the condominiums to possibly build single-family detached units. We may be getting a subdivision on the Brooks property sometime this year. The bank will be choosing between this property and one in Medina.

LAND USE AND ZONING REVIEW

Concord Township – Proposed Text Amendments to Sections III, IV, X, XI, XII, XIV and XXXVI

Section III, Enforcement and IV, Penalty:

These sections are basically housekeeping items for Concord Township. The staff was concerned that they stated they would notify the property owner of his right to appeal at the end of the final notification notice. This is a six-month to one-year process and the staff thought it would be better to notify the owner sooner in the process so he could get this administrative remedy done prior to the end of this process. The Land Use and Zoning Committee agreed on this item.

Mr. Schaedlich moved to accept the recommendation of the Land Use and Zoning Committee to accept these amendments and to move the notice of right to appeal earlier in the process. Mr. Brotzman seconded the motion.

All voted "Aye".

Section X, Zoning Inspector:

Basic changes are being made to make the language work better. One concern is that only Zoning Inspectors are mentioned in this section with no notations of assistants. Perry Township Zoning says "with such assistants the Board of Trustees deem necessary." These could be a zoning assistant, zoning coordinator, zoning secretary, etc.

With the Township changing the occupancy permit to a zoning compliance permit, the language will be made clearer and will eliminate confusion with the Building Department occupancy permit.

Staff and the Land Use and Zoning Committee recommended the amendment be accepted with the change to reference assistants.

Also, staff suggested they require the Zoning Inspector to inspect conditional uses, maintain the records, and issue permits in accordance with Section XIII. Land Use and Zoning also made this recommendation.

Mr. Schaedlich moved to recommend approval of the amendments as recommended by staff and the Land Use and Zoning Committee. Mr. Morse seconded the motion.

All voted "Aye."

Section XI, Zoning Permit:

These changes were based on changes in the ORC, removal of old regulations and Concord Township not eliminating references in other parts of the resolution. Staff suggested:

- To use stronger language such as "to a new permitted use in the current zoning district" instead of "the same zoning district."
- Section 11.01A- Change "and other yard structures..." to read "or other yard structures as specified by the zoning resolution" to give it more teeth.
- Proposed language in Section 11.14 is part of amending the zoning resolution or changing a zoning district and should be included with Section VIII, Zoning Commission, or they could create a new chapter for procedures to amend the zoning resolution and change the zoning map.

Land Use and Zoning recommended the submitted text changes with staff's suggestions.

Mr. Schaedlich moved to approve recommending the text amendments as stated by the Land Use and Zoning Committee to include staff's suggestions. Mr. Martin seconded the motion.

All voted "Aye."

Sections XII, Occupancy Permit; Section XIV, Use Districts and Section XXXVI, Site Plan Review:

All three sections above were considered at the same time. The submitted changes from Concord Township included the removal of RD-1, Research and Development in Section 14.01; adding Town Hall Commons and Town Hall Neighborhood Districts; adding the term "final site plan" in Section 36.06E3; adding a time period for the conditional approval site plan of two years; and changing Zoning Commission to BZA for variance requests in the flow chart.

Staff and the Land Use and Zoning Committee recommended the text changes.

Mr. Schaedlich moved to approve the recommendation of staff and the Land Use and Zoning Committee for the submitted text changes to Sections XII, XIV and XXXVI. Mr. Welch seconded the motion.

All voted "Aye."

Perry Township – Proposed Text Amendment Addition of Section 410, Prohibited Uses

Mr. Radachy stated Perry Township is adding Prohibited Uses to its Zoning Resolution. When the Township revised the Zoning Resolution in 2009, Section 212 was eliminated by accident.

Staff said Junk and Rubbish language referenced the Lake County Board of Health, which should be changed to the Lake County General Health District. Perry Township should list definitions for motor vehicle or motorized recreational vehicle in the Definitions section. Staff stated vehicle racing track would not cover BMX biking. Although there would be no engine noise, based on traffic and crowd noise, a nuisance may be created. He also suggested adding rendering and stockyards to this section.

Mr. Zondag said Section 212 talked about burning garbage. There are a lot of nurseries that will burn materials out of the fields and wanted to know if that was in this section. Mr. Radachy stated Section 212 was being changed to Section 410, which states that "No junk, rubbish, offal, scrap metal, rubber tires or other refuse shall be placed, stored, buried, reduced, burned or other disposed of on any property...." A nursery is an agricultural use.

Mr. Brotzman commented that he would like to see the burying of stumps and large amounts of debris on site in the clearing of land addressed in Lake County even though it is permitted by the Health Department. Mr. Zondag stated that buried stumps will eventually decay and fall in and there are places where this has occurred.

Staff and Land Use and Zoning recommended the changes, but changed the reference from Board of Health to the General Health District, asked to create definitions for motor vehicle and motorized recreational vehicle using the definition from ORC 505.173. The Township may want to consider including rendering and stockyards into this section.

Mr. Schaedlich moved to approve the recommendations of staff and the Land Use and Zoning Committee. Mr. Adams seconded the motion.

All voted "Aye".

REPORTS OF SPECIAL COMMITTEES

There were no reports.

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Review of Maintenance Guarantee Policy

Mr. Boyd stated they will be looking into the maintenance guarantee policy and incorporating it with other things into the Subdivision Regulations. We are waiting on other potential amendments from Mr. Hadden in the County Engineer's office.

Kimball Estate Subdivision Culvert

Mr. Brotzman stated that after the last meeting, Mr. Boyd and Mr. Scharver told him that the Kimball culvert was probably going to be addressed pretty soon; the lowering of the culvert or addressing the fact that it was too high. There was an excavator in there now, but nothing has been done on this. For the record, the developers were put on notice in May of 2006 that this had to be corrected. He is pleased to see excavators are now a part of it.

Mr. Boyd said the ball is in the County Engineer's court to make this happen. They are the office that must start the proceedings for us to get the bond if the work is not properly completed. At this point, we are not even sure the bond is still out there. The maintenance guarantee policy is such that, if we knew there was cash in hand, the odds would be much better that this would be done quickly or we would use that cash in hand.

Mr. Brotzman stated he would like to know that someone would not have to wait four years before they fix things. He thought it was ridiculous that this body initiates something

that in four years has not even been touched. He has been thinking about going to Mr. Condon in a civil manner to see if they could get this started.

ADJOURNMENT

Ms. Hausch moved to adjourn the May 25, 2010 meeting at 8:07 p.m. and Mr. Schaedlich seconded the motion.

All voted "Aye."